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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Ways and means to carry out a political dialogue between creditor and debtor countries in the United Nations system, based on the principle of shared responsibility

Report of the Secretary-General

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Introduction

1. At its fifty-first session, the Commission on Human Rights, in its resolution 1995/13, considered that, in order to find a durable solution to the debt crisis of developing countries and in addition to technical measures that should be implemented in order to alleviate the debt burden of these countries, there is a need for a political dialogue between creditor and debtor countries in the United Nations system, based on the principle of shared responsibility. In this regard, the Commission requested the Secretary-General to recommend ways and means to carry out this dialogue, and to submit a report to it at its fifty-second session. The Commission considered that the above-mentioned dialogue should contribute to the initiation of an integral process aimed at restructuring the international economic order with the objective of achieving more equitable and fair relations among all nations of the world.

2. Furthermore, the Commission affirmed that the process of consultations already initiated by the Secretary-General in accordance with Commission resolution 1994/11 should lead to the convening of high-level meetings at regional and world levels.

3. In the same resolution, the Commission expressed its preoccupation with the following:

(a) The growing deterioration of living conditions in the developing world, at its negative effects on the full enjoyment of human rights, and especially at the very serious economic situation of the African continent and at the terrible effects of the heavy burden of external debt on the developing countries;

(b) That the serious problem of foreign debt remains one of the most acute factors adversely affecting economic and social development and the living standards of the inhabitants in many developing countries, with serious effects of a social nature;

(c) The negative effects of the policies adopted to face situations of external debt, in particular the repercussions of structural adjustment programmes, on the realization and enjoyment of economic, social and cultural rights;

(d) That the debt-service obligations remain high, that the factors determining the capacity to pay have not moved in consonance with the debt-service obligations of the majority of developing countries and that the prospects for reducing the adverse effects of the debt burden on the development process in developing countries continue to be uncertain;

(e) That developing countries still meet their debt obligations at considerable cost to their economies; and

(f) That the present international economic order continues to be unfair and needs to be transformed.

4. Furthermore, the Commission formulated certain guidelines to be followed in the formulation and implementation of debt strategies including, inter alia, the following:

(a) Measures for debt reduction need to be accompanied by vigorous measures aimed at improving the international economic environment in order to facilitate the growth and development of developing countries;

(b) The new strategies for solving the debt problem, of both official and private origin, require policies of economic adjustment accompanied by growth and development and that it is essential, within those policies, to give priority consideration in the implementation to human conditions, including standards of living, health, food, education and employment of the population, especially among the most vulnerable and low-income groups;

(c) The importance of alleviating the debt and debt-service burdens of developing countries with debt problems in the framework of the realization of economic, social and cultural rights;

(d) The need to implement additional debt-reduction measures, including further cancellation or reduction of part of the official debt or debt-service, and the adoption of more urgent actions with regard to the commercial and multilateral debt owed by developing countries, taking into account, in particular, the needs of debtor countries;

(e) In addition to debt-relief measures that include debt and debt-service reduction, there is a need for new financial flows to debtor developing countries, and urges the creditor countries and multilateral financial institutions to continue to extend concessional financial assistance in order to support the implementation by the developing countries of their economic reform programmes, so as to enable them to achieve adequate technological and productive progress and extricate themselves from the debt overhand and to assist them in achieving economic growth and development and to compensate in some measure the developing which meet their obligations at considerable cost to their economies;

(f) Debt payments should not take precedence over the basic rights of the people of debtor countries to food, shelter, clothing, employment, health services and a healthy environment;

(g) There is a need for more transparency in the activities of international financial institutions;

(h) The international financial institutions to report periodically to the General Assembly and the Economic and Social Council on the social repercussions of their policies on the full enjoyment of economic, social and cultural rights in the developing countries.

5. The present report should be read in conjunction with the report of the Secretary-General prepared in pursuance of Commission resolution 1994/11 (E/CN.4/1995/25) on adequate measures to be implemented to find a durable solution to the debt crisis of developing countries so that they might fully enjoy all human rights, submitted to the Commission at its fifty-first session

and endorsed by the Commission in its resolution 1995/13. In compliance with paragraph 10 of Commission resolution 1995/13, the present report describes the ways and means to carry out a political dialogue between creditor and debtor countries in the United Nations system (sect. I), based on the principle of shared responsibility (sect. II).

I. A POLITICAL DIALOGUE BETWEEN CREDITOR COUNTRIES AND DEBTOR COUNTRIES WITHIN THE UNITED NATIONS SYSTEM

6. The interrelationship between global economic and social conditions and human rights is a fundamental principle of the Charter of the United Nations, affirmed in its Preamble, reiterated in Article 1 establishing the purposes of the United Nations and in Article 55 which defines the objectives for international economic and social cooperation, and institutionalized through the establishment of the Economic and Social Council as the "principal organ" as well as through the creation of specialized agencies and institutions.

7. Article 55 establishes the following objectives for the United Nations in the area of international economic and social cooperation:

> "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
>
> a. higher standards of living, full employment, and conditions of economic and social progress and development;
>
> b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation;
>
> c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

8. The interdependence of global social and economic conditions and human rights was subsequently reaffirmed by the international community and incorporated into several international instruments, including, in particular, the Declaration on the Right to Development.

9. The Charter of the United Nations, in its Articles 1 (3), 1 (4) and 56, recognizes the need for concerted international action and multilateral management of international problems of an economic, social, cultural or humanitarian character:

(a) Article 1 (3) establishes that one of the Purposes of the Organization is "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion";

(b) Article 1 (4) provides that the United Nations would be a "centre for harmonizing the actions of nations in the attainment of these common ends";

(c) In Article 56, all Members of the United Nations "pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55".

10. It follows from the above that the search for an equitable and durable solution to the problem of foreign debt of developing countries so that they may fully enjoy all human rights constitutes an essential feature of multilateral economic cooperation.

11. The Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities have, on a number of occasions, drawn attention to the serious nature of the problem of foreign debt which remains one of the most acute factors adversely affecting economic and social development in many developing countries as well as their full enjoyment of all human rights. A multilateral approach to the problem of foreign debt, under the auspices of the United Nations, with the equal participation of all Member States, would, therefore, appear to be more than necessary. Such an approach would enable greater progress to be made and would, at the same time, respond to the legitimate concerns and aspirations of all peoples, individually and collectively, everywhere.

12. Actions undertaken by the General Assembly are, by the very nature of the organ, universal. The Charter of the United Nations attributes to the General Assembly the competence to discuss, study and make recommendations on, inter alia, any matter related to international economic and social cooperation. The following Articles of the Charter are of particular relevance to the matter under consideration:

(a) Article 10: "The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter." Moreover, except as provided in Article 12, the General Assembly "may make recommendations to the Members of the United Nations or to the Security Council or both on any such questions or matters". (Art. 12 stipulates that, "while the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.");

(b) Article 13 (1) (b) attributes to the General Assembly the competence to initiate studies and to make recommendations for the purpose of "promoting international cooperation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion";

(c) Article 58 provides that the Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies; Article 60 stipulates that the responsibility for the

discharge of the functions of the Organization with regard to international economic and social cooperation shall be vested in the General Assembly.

13. Any global agreement on the question presupposes, a priori, intergovernmental and multilateral negotiations, at which Governments of creditor countries and of debtor countries will participate, and whose objective will be to elaborate a binding international agreement which will define the broad lines of an equitable and durable solution to the problem of foreign debt. In that light, a political dialogue, within the multilateral framework, involving all creditor countries and debtor countries as equal partners, may be carried out in the context of an international conference or within the framework of the General Assembly of the United Nations. By resorting to the competence of the General Assembly, a process of dialogue can be set in motion with a view to achieving common agreement on a global, equitable and durable solution to the debt crisis, under the auspices of the United Nations, with the full and equal participation of all Member States. The United Nations may constitute the appropriate mechanism to address the problem, but the impetus must come from the international political community which would have to assume its responsibility with regard to the problem of foreign debt.

A. General principles upon which the conduct of the political dialogue between creditor countries and debtor countries should be based

14. Various international instruments, declarations and resolutions adopted by the General Assembly, the Economic and Social Council, the Commission on Human Rights, governing bodies of United Nations agencies and bodies and international conferences and summits as well as reports of the Secretary-General contain guidelines and principles upon which to base the conduct of a political dialogue with a view to finding an equitable and durable solution to the problem of foreign debt of developing countries.

15. Political dialogue among States should be based on universally recognized principles on the conduct of international relations between States. Articles 2 and 55 of the Charter provide that peaceful and friendly relations among nations must be based on respect for the principle of sovereign equality and self-determination of peoples.

16. The principle of sovereign equality and self-determination of peoples has been developed further in subsequent instruments and made more specific. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970, annex) provides that "States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention." The General Assembly, in its resolution 1803 (XVII) of 14 December 1962 entitled "Permanent sovereignty over natural resources, stipulated that "economic and financial agreements between the developed and the developing countries must be based on the principle of equality and of the right of peoples and nations to self-determination".

17. The first United Nations Conference on Trade and Development, in 1964, adopted General Principle One relating to economic relations between countries: "Economic relations between countries, including trade relations, shall be based on respect for the principle of sovereign equality of States, self-determination of peoples, and non-interference in the internal affairs of other countries." 1/ According to principle VI of resolution 46 (III) adopted at the third session of UNCTAD in 1972, "Developing countries should participate on the basis of equality with other members of the international community in any prior consultations and decision-making in the reform of the world trade and monetary system; and developed countries should not take any unilateral decisions which directly or indirectly affect the social and economic development of developing countries." 2/

18. In the Programme of Action on the Establishment of a New International Economic Order (General Assembly resolution 3202 (S-VI) of 1 May 1974), the General Assembly provided that there should be full and effective participation of developing countries in all phases of decision-making for the formulation of an equitable and durable monetary system and adequate participation of developing countries in all bodies entrusted with this reform and, particularly, in the Council of Governors of the International Monetary Fund.

19. Article 3 (3) of the Declaration on the Right to Development, referring to the duty of States to cooperate, stipulates that "States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights."

20. At its forty-first session, the Commission on Human Rights, in its resolution 1985/43 reiterated that cooperation among all nations must be on the basis of respect for the independence, sovereignty and territorial integrity of each State, including the right of each people to choose freely its own socio-economic and political system and to exercise full sovereignty over its wealth and natural resources.

21. Respect for the principle of equal rights and self-determination of peoples clearly excludes any form of coercion. Article 2 (4) of the Charter states that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations." The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations states: "By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter." Furthermore, "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State."

22. These principles were more recently reaffirmed and reiterated by the international community at the World Summit for Social Development. Chapter II of its Programme of Action relating to the creation of an enabling environment for social development stipulates that international support "must be in conformity with the Charter of the United Nations and principles of international law and consistent with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, in accordance with the Charter of the United Nations" (para. 17).

23. In the report of the Secretary-General containing a preliminary set of basic policy guidelines on structural adjustment programmes and economic, social and cultural rights submitted to the Sub-Commission at its forty-seventh session (E/CN.4/Sub.2/1995/10), the Secretary-General listed, inter alia, the following general guidelines, formulated by the international community in resolutions of the Commission on Human Rights, at the World Conference on Human Rights and the World Summit on Social Development, relating to the conduct of economic and financial relations between States:

(a) "The provision of economic and technical assistance, loans and increased foreign investment must not be subject to conditions which conflict with the interests of the recipient State." (para. 173);

(b) "There should be a general easing of the terms of lending to the developing countries through low interest rates on loans and long grace periods for the repayment of loans, and the assurance that the allocation of such loans will be based strictly on socio-economic criteria free of any political considerations." (para. 174);

(c) "In cases where authorization is granted, the capital imported and the earnings on that capital shall be governed by the terms thereof, by the national legislation in force, and by international law. The profits derived must be shared in the proportions freely agreed upon, in each case, between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State's sovereignty over its natural wealth and resources." (para. 175);

(d) "Technical cooperation should not be used to impose models of economic development on a recipient country if those models do not fully take into account the policy framework and development strategies of that country." (para. 181);

(e) "International financing institutions should effectively play their role as development financing banks without discrimination on account of the political or economic system of any member country, assistance being untied." (para. 185).

B. Guidelines for the formulation of an equitable and durable solution to the problem of foreign debt

24. Any international agreement on an equitable and durable solution to the problem of foreign debt should be formulated in a manner that promotes both individual and collective rights and promotes overall development in developing countries and enables them to fully enjoy all human rights, in

particular economic, social and cultural rights and the right to development. By incorporating in the Charter that one of the purposes of the United Nations is "to achieve international cooperation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion", States Members of the United Nations engaged themselves to ensure, in cooperation with the international Organization, universal and effective respect for human rights.

25. Hence, existing international instruments could provide the framework for the formulation of measures for an equitable and durable solution to the problem of foreign debt of developing countries. In addition to the Charter of the United Nations, relevant international documents include, inter alia, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration on Social Progress and Development, the Declaration on the Right to Development, international labour conventions, international instruments relating to specific groups such as women, children and indigenous peoples, as well as resolutions of the United Nations and the conclusions of international conferences and summits.

26. The problem of foreign debt of developing countries is of an economic, political, social and historical nature and as such cannot be resolved through an exclusive focus on the technicalities of the debt problem alone but must involve a global approach. Any global agreement should address the problems relating to all categories of debt, bilateral as well as multilateral, commercial as well as public. While it should contain global measures to address the problem in its complexity and entirety, the agreement should, in particular, take into account the particular situation of the least developed countries.

27. United Nations agencies and bodies have established a number of guidelines for the formulation of policies as well as for their implementation at the national and international levels.

28. As early as 1944, the International Labour Conference, in the Philadelphia Declaration annexed to the ILO Constitution, formulated the essential principles that would guide the formulation of national and international policies and measures of an economic and financial character:

> "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
>
> "...
>
> "all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective."

29. The Commission on Human Rights and its Sub-Commission have on several occasions stressed the importance of alleviating the debt and debt-service burdens of developing countries with debt problems in the framework of the

realization of economic, social and cultural rights. Since its forty-third session in 1991, the Sub-Commission has concerned itself with the negative effects of structural adjustment programmes upon the realization of economic, social and cultural rights and has requested the Secretary-General to prepare basic policy guidelines on structural adjustment and economic, social and cultural rights, which could serve as a basis for a continued dialogue between human rights bodies and the international financial institutions. The report containing a preliminary set of basic policy guidelines submitted to the Sub-Commission at its forty-seventh session is currently before the Commission. These preliminary policy guidelines can also be taken account of in the formulation of an equitable and durable solution to the problem of foreign debt within the context of a political dialogue in the United Nations system.

30. It is widely recognized that the problem of foreign debt cannot be resolved in isolation from the need for overall development, defined by the General Assembly in the Declaration on the Right to Development as "a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom." Hence, an equitable and durable solution to the problem of foreign debt of developing countries must be addressed within the framework of the realization of the right to development. The Working Group on the Right to Development at its third session underlined that the concepts contained in the Declaration on the Right to Development must form an integral part of the policies and programmes of all United Nations bodies and agencies, including the Bretton Woods institutions and the future World Trade Organization (E/CN.4/1995/27, para. 58).

31. An assessment of the problem as well as the formulation and implementation of measures for an equitable and durable solution to the debt crisis must be guided by the fact that the right to development, as contained in the Declaration on the Right to Development, is an inalienable human right and an integral part of fundamental human rights. The Declaration calls for an approach that is, at the same time, people-centred, global and multidimensional in character where the economic, social, civil, cultural and political aspects are interdependent and complementary. It recognizes the interrelationship and interdependence between the economic, social, cultural and the political; the individual and the collective; the national and the international. The approach that is adopted should not, therefore, be partial and fragmented or implemented in a manner that is selective and hierarchical. Both the Secretary-General in his report to the Sub-Commission (para. 47) and the Working Group on the Right to Development at its third session (para. 58) noted that since the right to development implies an integrated approach to political, social, economic and cultural rights as a whole, macroeconomic policies should not be separated from social objectives. The Sub-Commission on Prevention of Discrimination and Protection of Minorities (in its resolution 1989/21) and the Secretary-General in his report (para. 47) stated that in formulating debt policies, particular account should be taken of social objectives and growth and development priorities.

32. The Declaration underlines a number of fundamental principles on which development must be based and which should inspire and guide the formulation of appropriate policies. These include equality, non-discrimination, social justice, solidarity and self-reliance. Any development strategy must ensure that the human person, individually and collectively, is the central subject of development and the active participant and beneficiary of the right to development. The Global Consultation on the Right to Development reiterated the subjective nature of development: "What constitutes 'development' is largely subjective, and in this respect development strategies must be determined by the people themselves and adapted to their particular condition and needs. No one model of development is universally applicable to all cultures and peoples." (HR/PUB/91/2, para. 155). In its Programme of Action the World Summit for Social Development called on the international community to support national efforts "ensuring that human persons are at the centre of social development and that this is fully reflected in the programmes and activities of subregional, regional and international organizations" (para. 17 (d)).

33. The Secretary-General, in the report mentioned above, listed a number of human rights principles that may be applied when addressing economic and financial questions (paras. 39-72) as well as policy guidelines for action at the national level. It also listed the following guidelines relating to a more general orientation of an international debt strategy (paras. 186-192 and 197).

(a) "States should pursue internal and external economic policies designed to accelerate growth throughout the world, and in particular to help promote, in developing countries, a rate of growth consistent with the need to bring about a substantial and steady increase in average income.";

(b) "More appropriate conditions should be established for a balanced exchange of resources between North and South. There is a need for greater transfers internationally as well as a redirection of current resources.";

(c) "All States should respond to the generally recognized or mutually agreed development needs and objectives of developing countries by promoting increased net flows of real resources to the developing countries from all sources.";

(d) "Any foreign debt strategy must be designed not to hamper the steady improvement of conditions guaranteeing the enjoyment of human rights and must be intended, inter alia, to ensure that debtor developing countries achieve an adequate growth level to meet their social and economic needs and their development requirements.";

(e) "The alleviation of debt and debt-service burdens of developing countries with debt problems should take place in the framework of the realization of economic, social and cultural rights.";

(f) "The new strategies for solving the debt problem, of both official and private origin, require policies of economic adjustment accompanied by growth and development. It is essential, within those policies, to give

priority consideration in their implementation to human conditions, including standards of living, health, food, education and employment of the population, especially among the most vulnerable and low-income groups.";

(g) "Debt payments should not take precedence over the basic rights of the people of debtor countries to food, shelter, clothing, employment, health services and a healthy environment.";

(h) "Measures for debt reduction also need to be accompanied by vigorous efforts aimed at improving the international economic environment in order to facilitate the growth and development of developing countries."

34. In addition, the report of the Secretary-General in paragraphs 193 to 196 contains basic policy guidelines for both short-term or intermediate measures as well as for long-term measures necessary for an equitable and durable solution to the problem of foreign debt. The following specific guidelines apply to short-term measures:

(a) "Steps should be taken to implement additional debt-reduction measures, including further cancellation or reduction of part of the official debt or debt-service, and to adopt more urgent actions with regard to the commercial and multilateral debt owed by developing countries taking into account, in particular, the needs of debtor countries.";

(b) "Measures should be adopted to substantially reduce the bilateral debts of the least developed countries, in particular the countries of Africa, as soon as possible.";

(c) "Creditor countries and multilateral financial institutions should continue to extend concessional financial assistance in order to support the implementation by the developing countries of their economic reform programmes." (The Commission, in its resolution 1995/13, also emphasized that the new financial flows to debtor developing countries should enable them to achieve adequate technological and productive progress, extricate themselves from the debt over-hang, assist them in achieving economic growth and development and compensate developing countries which meet their obligations at considerable cost to their economies.);

(d) "Steps should be taken to mobilize the resources of the International Debt Association Debt Reduction Facility in order to help eligible developing countries to reduce their commercial debt, considering alternative mechanisms to complement that facility."

35. In addition to short-term or intermediate measures to alleviate or reduce the debt burden, any global agreement should also encompass long-term measures to prevent the recurrence of future debt crises. Hence, it would be necessary to address the question of putting in place a production structure capable of generating domestic income and enable developing countries to fully enjoy all human rights.

36. In its resolution 1995/13, the Commission considered that the political dialogue between creditor and debtor countries in the United Nations system should contribute to the initiation of an integral process aimed at

restructuring the international economic order with the objective of achieving more equitable and fair relations among all nations of the world. This would include issues such as the transfer of resources through the establishment of an equitable and fair multilateral trading system; regulation of the activities of transnational corporations; access to environmentally sound technology; development assistance; adjustment in industrialized countries; review of the policies and practices of international financial institutions as well as reform of the international financial and monetary system.

37. The report of the Secretary-General lists several guidelines related to these issues which can provide a framework for approaching these questions. These are contained in paragraphs 186 to 188 and 199 to 252 of the report.

II. SHARED RESPONSIBILITY

A. Responsibility of States at the national level

38. The global dimension and political character of the problem of foreign debt require that an equitable and durable solution to the debt crisis be sought through genuine political dialogue between creditor countries and debtor countries, based on the principle of shared responsibility.

39. The principle that States have primary responsibility for the creation of national and international conditions for the realization of human rights and the development of peoples and individuals has been incorporated in numerous international instruments and widely recognized by the international community.

40. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights reaffirm the right of everyone to a social system and an international order under which economic, social, cultural, civil and political rights can be fully exercised.

41. Subsequent international instruments defined more clearly the responsibility of States in the area of human rights and development. In the Declaration on Social Progress and Development, proclaimed by the General Assembly in its resolution 2542 (XXIV) of 11 December 1969, the Assembly considered that a primary condition of social progress and development is, inter alia, "the right and responsibility of each State and, as far as they are concerned, each nation and people to determine freely its own objectives of social development, to set its own priorities and to decide in conformity with the principles of the Charter of the United Nations the means and methods of their achievement without any external interference" (art. 3 (e)). Furthermore, "each Government has the primary role and ultimate responsibility of ensuring the social progress and well-being of its people, of planning social development measures as part of comprehensive development plans, of encouraging and coordinating or integrating all national efforts towards this end and of introducing necessary changes in the social structure" (art. 8).

42. Subsequently, the Charter of Economic Rights and Duties of States, adopted by the General Assembly in its resolution 3281 (XXIX) of

14 December 1974, stipulated: "Every State has the primary responsibility to promote the economic, social and cultural development of its people. To this end, each State has the right and responsibility to choose its means and goals of development, fully to mobilize and use its resources, to implement progressive economic and social reforms and to ensure the full participation of its people in the process and benefits of development." (art. 7).

43. In the Declaration on the Right to Development, the General Assembly reiterated that States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development (art. 3 (1)). More recently, this fundamental principle was reiterated by the international community at the World Summit for Social Development and contained in the Programme of Action (para. 15 (c)).

B. The duty of States to cooperate with each other at the international level

44. That social progress and development are the shared concern and responsibility of all States is a fundamental principle first recognized in the Charter of the United Nations and reflected, in particular, in Articles 55 and 56. In Article 56, all Members of the United Nations pledge to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55. The need for international cooperation and the duty of States to cooperate is subsequently reiterated and further developed in a number of international instruments.

45. For instance, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations stipulates that States have the duty to cooperate with one another in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences. The Declaration on Social Progress and Development declares that "Social progress and development are the common concerns of the international community, which shall supplement, by concerted international action, national efforts to raise the living standards of peoples" (art. 9). In that Declaration, the General Assembly considered "friendly relations and cooperation among States irrespective of differences in their social, economic, or political systems" to be a primary condition of social progress and development (art. 3 (f)).

46. Subsequently, the Charter of Economic Rights and Duties of States provided: "Every State should cooperate with the efforts of developing countries to accelerate their economic and social development by providing favourable external conditions and by extending active assistance to them, consistent with their development needs and objectives, with strict respect for the sovereign equality of States and free of any conditions derogating from their sovereignty" (art. 17). It stipulates that all States have the duty, individually and collectively, to cooperate in eliminating obstacles that hinder the mobilization and use of its resources by a State for the promotion of the economic, social and cultural development of its people (art. 7). Furthermore, it requires that States cooperate in facilitating more rational and equitable international economic relations and in encouraging

structural changes in the context of a balanced economy in harmony with the needs and interests of all countries, especially developing countries, and take appropriate measures to this end (art. 8).

47. The Declaration on the Right to Development reaffirms the principle of duty of solidarity and cooperation and requires all States and the international community to undertake measures for the realization of the right to development. In that Declaration, the General Assembly reiterated that "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development" (art. 3 (3)). It will be recalled that the Commission on Human Rights, in resolution 1995/13, stressed that foreign debt continues to be one of the major obstacles to the realization of the right to development.

48. Recently, at the World Summit for Social Development, the international community once again declared that States should cooperate with each other to ensure development and eliminate obstacles to development. The Programme of Action stipulates that "the international community should promote effective international cooperation, supporting the efforts of developing countries, for the full realization of the right to development and the elimination of obstacles to development, through, inter alia, the implementation of the provisions of the Declaration on the Right to Development". At the Summit, the international community undertook to promote the realization of the right to development through, inter alia, "equitable economic relations and a favourable economic environment at the international level" (para. 17 (c)).

49. The Working Group on the Right to Development has underlined that developed countries have a special responsibility, in the context of growing interdependence, to create a global economic environment favourable to accelerated and sustainable development. In particular, it is the most powerful countries that bear major responsibility for coordinating macroeconomic policies to ensure a context of a stable and predictable international environment so as to encourage, stimulate and promote sustainable human development (E/CN.4/1995/11, paras. 50 and 57).

C. Duty of international financial institutions

50. The International Monetary Fund and the World Bank are international governmental institutions that are fully integrated into the United Nations system as a specialized agency established by governmental agreement in accordance with Article 57 of the Charter of the United Nations. As such, both institutions, like any other United Nations body or any other subject of international law, are bound by the Charter of the United Nations and have a duty to respect the postulates formulated in the Preamble to the Charter, the Purposes of the United Nations (Art.1), the principles governing the actions of the Organization and its Members (Art.2), the objectives of the Organization in the area of international economic and social cooperation (Arts. 55 and 56), specific provisions aimed at their realization and which are contained in the Charter as well as in other international instruments including, inter alia, the International Covenants on Human Rights, international conventions, including the international labour conventions, and resolutions and declarations of the United Nations. The international

financial intitutions are particularly bound by their own statutes both of which set out their objectives as being to achieve high levels of employment and real income worldwide.

51. The Special Rapporteur on the realization of economic, social and cultural rights expressed the opinion in his second progress report to the Sub-Commission that :

> "the institutions directly involved in designing, promoting and monitoring programmes of structural adjustment, such as the World Bank and IMF, are not exempt from considering the human rights implications of their work programmes. Although perhaps only implicitly, these institutions nevertheless have human rights obligations. While this argument remains subject to discussion within these institutions, it is premised on the following points:
>
> "(a) The World Bank and IMF are United Nations agencies (or at the very least United Nations 'affiliates'), which are consequently bound by the terms of the United Nations Charter, in particular the human rights clauses found in Articles 55 and 56;
>
> "(b) Both of these institutions, as well as others, maintain (whether they say so or not) development-oriented portfolios. Human rights concerns have been increasingly incorporated in a broad range of development activities, such that in its resolution 1987/29 the Sub-Commission stated that 'policies aimed at sustainable development imply the integration of human rights in the development process'. The link between human rights and development has become inseparable;
>
> "(c) The leverage (both potentially and de facto) imposed by these agencies upon and within States is so extensive that human rights can be jeopardized or potentially enhanced in a number of ways;
>
> "(d) The human rights impact of policies pursued by these institutions have been addressed by various human rights organs of the United Nations, in particular the United Nations Committee on Economic, Social and Cultural Rights" (para. 53 (a)-(d)).

Notes

1/ Proceedings of the United Nations Conference on Trade and Development, vol.I, Final Act and Report (United Nations publication, Sales No.64.II.B.11), annex A.I.1.

2/ Proceedings of the United Nations Conference on Trade and Development, Third session, vol. I, Reports and annexes (United Nations publication, Sales No. E.73.II.D.4), annex I.A.1.